DOCUMENT RESUME

ED 409 624 EA 028 479

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TITLE Changing Paradigms in Negotiations: A Microethnography of the "Interest-Based" Model of Collective Bargaining in School Board-Teacher Union Contract Negotiations.
PUB DATE Jun 97
NOTE 21p.
PUB TYPE Reports - Research (143)
EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Collective Bargaining; Contracts; Elementary Secondary Education; *Group Dynamics; Intergroup Relations; *Labor Relations; *Negotiation Impasses; Power Structure; *Resistance to Change; Unions

ABSTRACT

One of the most sensitive issues in K-12 education today is that of professional negotiations between administration and teachers. This paper describes the effects of mediation training on negotiation talks between teachers and management. Teams of representatives from a teachers' union and a board of education participated in a 1-week mediation training session based on the Federal Mediation Conciliation Service (FMCS) negotiation model. They then engaged in a negotiation process that lasted over 2 years. Data were obtained through participant observation, focus-group discussions, and interviews. Although the training process produced changes in participants' behaviors, some participants continued to exhibit a great resistance to change. Both a formal and an informal power structure continued to operate, which was evidenced by representatives' use of jargon and terminology specific to their group or school. Some participants violated the ground rules by holding private "caucuses" to discuss issues. In short, some participants reverted to the old behaviors and attitudes of mistrust and partisanship. The findings suggest that the brief initial training was not sufficient for team members to internalize the interest-based bargaining process and that periodical retraining is necessary for true and lasting change to occur. One figure is included. (Contains 37 references). (LMI)

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ED 409 624

Changing paradigms in negotiations: a microethnography of the "interest based" model of collective bargaining in school board-teacher union contract negotiations

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June, 1997

EA 028 479

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ACKNOWLEDGMENTS

The author wished to acknowledge the participation provided by the Williamson County Education Association, the Williamson County Schools Board of Education, the Federal Mediation and Conciliation Service, and the Tennessee Education Association.

Marie Whitehead
June 10, 1997

Among the many sensitive issues in K-12 education today perhaps the most controversial and most apt to evoke negative community response is the issue of professional negotiations between administration and teachers. Usually viewed as a labor-management issue with "us v. them" overtones, the widely accepted perception of teacher salary bargaining conjures up visions of strikes, closed schools, selfish teachers, untaught children, and occassionally bitter conflict between teachers and the administrators they work with and for. Salary, benefits, and tenure spark the most controversy, although there is an ever growing movement to give teachers more involvement in curriculum development and other non-fiscal issues.

Review of Related Literature

How did such a state of affairs come to pass in a field which has its essence in the growth and nurturing of children, and which prides itself on the caring, concern, and professionalism of its membership? One has only to look back at the traditional model of the school as factory. Just as the school building administrative structure evolved from an assembly line management model (Hartley, 1990) (House, 1978), so also has the bargaining/negotiations paradigm followed trends in corporate and private sector management models. Collective bargaining, which was instituted by organized labor unions in their efforts to achieve better pay and working conditions for factory workers, has historically been perceived as being adversarial in nature, even when applied to the education setting (Dagley et al., 1995) (Chalker, 1990).

While collective bargaining in education does take place in Alabama, the process

does not follow the more traditional format of individual system bargaining units such as is practiced in surrounding states. Instead of each school system appointing a bargaining team of teacher union representatives and administrators who represent the school board, bargaining is done at the state level. Therefore, Alabama educators may not have the opportunity to participate in and observe a process in which they may at some time be involved, particularly should they pursue their education careers out of state.

Since the collective bargaining process has proven to be devisive and controversial in other states and in some school systems, an observation of the process from a first hand, participatory viewpoint seemed to be an appropriate topic for a field-based observational study of teacher-administrator behaviors. Bargaining and contract negotiations had proven highly inflammable in the school system under observation, with present day controversy and disagreements being inextricably entwined with decisions made decades in the past. However, in traditional southern communities, the memories of slights and feuds cast long shadows, unfortunately even among professional educators . Demographic changes within the community also filtered into the negotiations between teachers and administrators and were reflected in widely publicized misunderstandings based on flawed communications between newcomers and the traditional power structure (Dagley, 1992; Watkins, 1986). The close proximity of the school system in question with a major metropolitan area and the location of several large automotive manufacturing plants in the area foreshadowed the change from a rural, agricultural point of view to a more global perspective. These competing and widely divergent interests resulted in the decision of the education system to work toward a paradigm shift, from an adversarial to an

"interest-based" or collaborative bargaining approach.

Prior to the school superintendent's decision to move to interest-based bargaining, teacher contract negotiations and professional relations between teachers, negotiators, and school board could only have been described as flawed, at best. The bureaucratic, managerial leadership style prevailed, and while many proponents of school accountability advocate a return to the basics and to more stringent performance indicators (Corder, 1985; Green, 1995; Helsby et al., 1993; Stevenson, 1992), there are nonetheless an enormous number of pros and cons to be considered in such an undertaking. Permission for the study was given by the school superintendent, who had invested considerable personal effort in ameliorating the oft times bitter debate which occurred annually across the negotiating table. In some years, contracts were barely settled for the previous year before the new school year began. Such was the state of affairs that led to the development of a preliminary guiding question for the project, "How can a school district make the change from adversarial, win-lose negotiations to collaborative, win-win, interest-based bargaining?

Opponents of the old "industrial style" collective bargaining/management model have been quite vocal, and although most are in agreement as to the long-term negative consequences of such a style of negotiation, there was considerable disparity in the literature as to whether this style had been perpetuated by teacher unions or by management (Allen, 1979; Avila, 1993; Gronn, 1982; Holt, 1993; House, 1978; Streshly et al., 1994; Venter, 1993; Willower, 1983). In any event, there was consensus that collaboration is essential in the development of teacher/administrator performance

indicators and in the development of contract language that reflects the best interests of students, teachers, the community, and the school board.

The literature revealed many examples of school superintendents and school boards which had grown weary of continuing adversarial relations and accompanying poor morale, grievances, and mistrust and who had turned, with excellent results, to collaborative bargaining (Attea, 1993; Bohannon et al., 1985; Cresswell et al., 1985; Crist et al., 1996; Dagley et al., 1995; Herman, 1991; Liontos, 1987; Misso, 1995; Smith et al., 1990; Tyler Wood et al., 1990). Although none of the participants viewed the process as either simple or a "quick fix" solution, the time and effort spent more than paid off in both improved communications and in community, teacher, union, and school board relations. While organizational theorists and observers dating back to Mary Parker Follett (1942) have long held that some conflict is good and helps an organization to move forward, none deny that there arrives a point at which extended quibbling over the minutiae of contract language can become counterproductive in terms of organizational health. For this reason, the school district called in the services of a professional mediator from the Federal Mediation and Conciliation Service to provide training for both teacher union and administrator members of the bargaining team.

Current private sector and educational managers and trainers have placed an emphasis on team building and team problem solving, beginning with students in the early grades (Murphy et al., 1991; Teague et al., 1995) and continuing with such training into the professional careers (Hager et al., 1990; Namit et al., 1987; Peace, 1994; Rosen, 1993; Shelton et al., 1993; Taylor et al., 1992). While each of the training models varies to a

certain degree, all do share certain core principles, with the most fundamental being mutual respect and an emphasis on helping the other side achieve goals based on identified interests. Preparatory to actual negotiations, team members were trained in beginning with groundrules based on mutually agreed upon standards.

The stated "standards" for negotiated items under the FMCS model are as follows:

1. Is this legal?
2. Is this ratifiable by both the board and the teachers union?
3. Is it affordable?
4. Is this practical?
5. Is this ethical?
6. Is this consistent with standards and practices in comparable districts?
7. Is this fair and equitable to all members?
8. Does it meet the mission statement standards of the school district?

After brainstorming, each idea is checked on a matrix to determine whether or not it conforms to the agreed upon standards and resultant ideas are then prioritized according to number of checks received.

Participants

The participants in this study were representatives of the teacher's union and of the board of education, with each side of the negotiating team serving voluntarily and being chosen as a representative either by election or appointment. Members of both teams were long time professional educators, with the majority having over 15 years of experience and several over twenty. As the researcher was a member of the teacher's

negotiating team, the research was conducted as a participant observation. Thus, information was gathered by observation and recorded as minutes, journal entries, or field notes. Focus group discussions as well as interviews were conducted. To preserve confidentiality, participant identities were coded and no interviews were tape recorded, at least by this researcher. However, because the contract negotiations are public procedings and often were attended and reported by members of the press, the issue of permission and confidentiality did not loom as large an ethical concern as research involving test scores or teacher evaluations. However, as a "teacher" working in the central office complex, there were certain constraints and difficulties which presented themselves in gaining the trust of co-workers who were practicing administrators and members of the management team, particularly in questions regarding finances, salaries, and administrator contracts.

A week long training session for all participants served as a preliminary to the actual negotiations themselves. Participants completed group problem solving activites and were assigned to various role-play problems designed to encourage more global thinking and broaden perspectives. Materials were provided by the FMCS mediation representative and included several bargaining simulations which were unrelated to those areas most familiar to educators. Since members of the negotiating team had served for many years in their roles and thus for the most part were entrenched in one point of view, members of the school board team were given "union" roles, and members of the teacher union team acted as "management." Group participants completed simulations of a baseball contract negotiation, a manufacturing plant shut down issue, and consensus on a transplant surgeon's decision on how to prioritize needs of transplant recipients.

Purpose of the study

After initial training, observations, focus groups, and interviews took place over a two year period and during the course of the investigation, several guiding questions emerged:

1. Was there both a formal and informal power structure in place during the negotiations process?

2. What were the rules (both written and unwritten) of the negotiation procedure?

3. Was it possible for firmly entrenched adversarial behaviors, developed over years, to be changed via the new negotiations process?

Methodology

The research was identified as a microethnography as it addressed a single social situation in one particular cultural setting. The setting for the observations took place in one building, which allowed for the recording of more detailed and indepth data than had the observations been conducted in a variety of locations.

During the course of initial analysis of the data, it became evident that a key element to determining underlying themes was the use of verbatim transcripts of participant conversation. Spradley (1980) points out that "native terms must be recorded verbatim. Failure to take these steps along the path to discovering the inner meaning of another culture will lead to a false confidence that we have found out what the natives know. We may never even realize that our picture is seriously distorted and incomplete" (p. 67). Since the language of contract negotiation is particularly marked by references to school board policy and to other highly specialized terminology, the necessity of recording

terms verbatim became evident, although even this proved problematic when acronymns were used by participants.

The method of data analysis deemed most appropriate for the type of materials collected was the constant comparative (Bogdan et al., 1992). The constant comparative method is useful for analysis of multiple data sources and was employed as data consisted of formal interviews, focus group discussions, observations, photographs, diagrams, minutes, and journal entries. At the end of each field day, the resultant observational notes were reread, expanded, and coded. This process included the integration of sketches of body language, proximity, and seating choices with specific verbal and nonverbal behaviors.

Setting

The building which provided the setting for both training and negotiation sessions is a three story administrative complex, formerly the county hospital, which houses not only the school district offices, but the county administrative offices and a variety of community agencies, including a teachers' center on the ground floor. The teachers' center serves a multipurpose function, including teacher training and inservice, technology aided distance learning for students and teachers, videoconferencing, and preparation of teaching materials and supplies. It also is used as a resource for home-schooled students. The third floor of the complex houses county tax, agricultural extension, literacy, GIS, and planning offices in the west wing and adult JOBS offices in the east wing.

While teachers were given release time for the FMCS training, the negotiation sessions themselves took place in the afternoons after school on the second floor of the

complex (the school district administrative offices) and lasted usually two hours. This room is labeled "CC" on the diagram, Figure 1. The attached diagram shows only the second floor of the east wing of the complex.

Over time as data was recorded and analyzed, the following behavioral patterns began to emerge:

1. Even though training in the collaborative bargaining process had stressed the importance of non-adversarial seating arrangements among members of the negotiating teams, over time several team members reverted to a traditional "across the table" seating arrangement. While the mediator had emphasized the importance of having members of the two bargaining sides seated adjacent to each other, this arrangement for the most part did not last, particularly among long-term team members. Some groups tended to "cluster" in cliques, and although the migration to previous seating arrangements was gradual, nevertheless it was observable.

2. The collaborative bargaining training had emphasized active participation by all team members, with discussion open to comments and questions by participants from either side. The old style of bargaining had been earmarked by having "chief negotiators" speak for each team. Over time, the tendency was for team members either to allow "chief negotiators" to do all - or the majority - of the talking. Whether this was monopolization by the lead negotiators or reluctance to speak on the part of other team members was not clear.

3. The collaborative bargaining model had stressed the use of specific steps to be followed in the bargaining process and adherence to pre-defined groundrules. After

several bargaining sessions, participants complained of length of time needed to complete the steps. Among recorded comments were, "This takes longer than what we did before." This reaction seemed to be shared equally by members of both teams and may have discouraged some team members from strict adherence to the groundrules, which in turn may have led to other disintegration of the process.

4. Even though the collaborative bargaining model broke down in several areas, the move toward the setting of and adherence to predetermined start and stop times for meetings was maintained.

5. Interviews with participants and informed observers (who were questioned as a means of triangulating the data) resulted in the emergence of a fourth pattern of behavior. While negotiations in years past had been marked by open hostility and team members on both sides had reported headaches, nausea, and nerves after particularly confrontational sessions, the post-training sessions, while not openly hostile, had been observed to include veiled "score keeping" by some participants. While for the most part, these behaviors were covert and not overt, nevertheless they were observed and reported by both participants and non-participants of the negotiations process. Once again, these behaviors may indicate that the brief initial training may not have been sufficient to "freeze" participant behaviors in the win-win process model and to continue to view the process as having "winners" and "losers."

However, even though the participants of the negotiations process had a tendency to revert to old style behaviors, all those interviewed had favorable comments to make concerning the new bargaining method, with the exception of the length of time needed to

implement each step of the model as it had been presented in the training sessions.

The following is a portion of a transcript of one negotiating session which had major medical and section 504 as main topics for discussion (initials only are used here):

BC: "G___ is going to present 504." (G sits at table)

GH: "We've asked _____ to appoint a 504 coordinator. Nothing's been done since the 504 inservice for all administrators."

BH: "Two team members put together and combined a packet."

GH: "The system has a Grievance procedure in place in the booklet."

BC: "In addition to administrators there were other educators (at the 504 inservice)."

GH: "Schools still have to enforce 504."

The 504 issue was tabled pending a report from a subcommittee appointed previously to study the disparity of handling of 504 students from school to school.

The discussion then turned to electronic transfer of funds for Career Ladder and Day Care checks for educators designated to be paid through the Credit Union. Credit Union electronic transfer procedures had been changed and several educators who were expecting funds were not paid as expected, either receiving one check instead of two or several instead of one.

The above excerpts were from notes taken by the researcher, which were detailed and attempted to record terminology verbatim whenever possible. In addition to personal notes taken at the meeting, the commitee had appointed a recorder, not an official member of the negotiating team, to record minutes of each meeting. After each negotiation session, these minutes were printed and distributed to negotiations team members. These

minutes were "distilled" and examined for commonalities and triangulated with notes taken by the researcher. The resultant information consisted of a domain analysis of emerging issues and concerns of teachers across the school system.

After color coding each of the topics discussed and grouping the categories according to taxonomic commonalities, it appeared that most of the negotiations discussions focused on the amount of time educators spent in "S" team, "M" team, and 504 meetings. The inordinate amount of time educators were required to spend in these meetings led to discussions of length of work day, school-wide activity times, shorter student days, longer school year, longer work day, etc. Other major areas of concern involved coaching supplements and middle school athletics, to include addition of supplements for middle school coaches in HVAC - Harpeth Valley Athletic Conference. There was also discussion of coaches circumventing the bargaining process to negotiate coaching supplements directly from the school board, which was illegal. Salary and benefits (although important) did not emerge as the main concern of educators, although disability insurance continued to be a hot topic of discussion. Salary concerns focused on number of "steps" on the salary schedule and the distribution of raises granted by the state or by the county commission across the steps of the salary schedule.

As this information, which came to fill notebooks, was filtered and distilled it was evident that some of the answers to guiding questions were beginning to emerge. That there was both a formal and informal power structure in place became evident. References to special education and coaching/athletics appeared repeatedly, leading to the conclusion that these areas play an large role in the system's informal power structure and

that these informal power sources influenced the negotiations process.

Unwritten rules of the negotiations process emerged as certain individuals were designated "speakers" and others as "observer/recorders." Also, the pace and progress of the negotiations could be controlled by availability of requested data or by presence/absence of "key" team members.

Although a collegial attitude existed among many of the team members, it was evident that several exhibited evidence (through body language and other proxemic indicators) of disparity in attitude toward the process and toward other team members.

In conclusion, although the training process did produce changes in behaviors, it became clear that there was a great resistance to change, particularly among some participants. There was also both a formal and informal power structure, whose membership was indicated by use of jargon and terminology specific to that group or, in some cases, school. In some instances it was obvious that teachers had learned and were using slang picked up from students, which even administration had difficulty understanding. Since the interest based bargaining model stressed the minimization of "caucuses" to discuss issues in private (open discussions should be held), it is possible that some participants resorted to these ploys to dodge the established groundrules. However, teachers may use these ploys to compensate for lack of true empowerment.

It is obvious that the brief initial training is not sufficient for team members to internalize the interest based bargaining process and that periodical retraining is necessary before true and lasting change can occur.

SCHOOL SYSTEM "A"

2nd Floor, East Wing

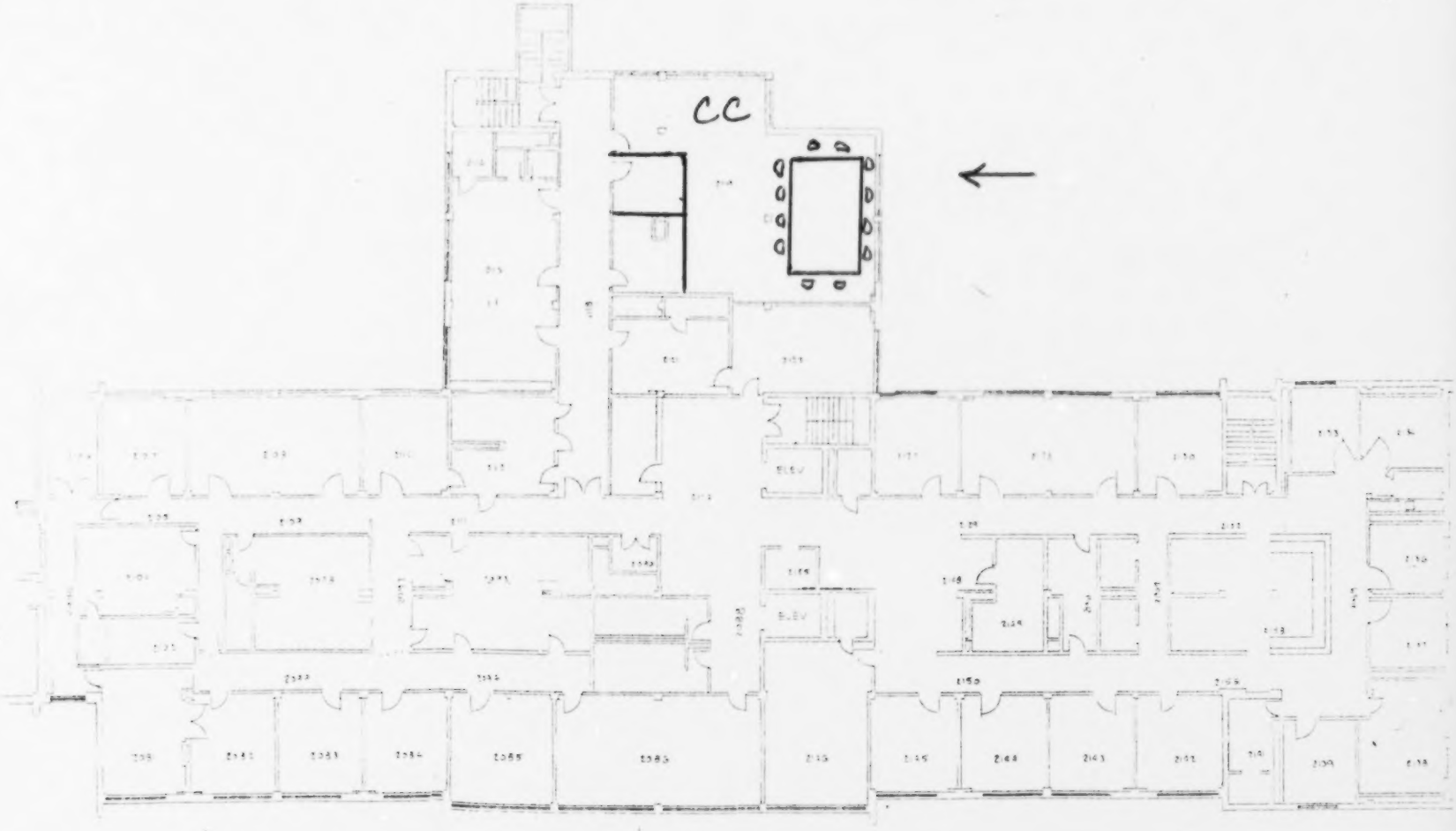

FIGURE 1

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